IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 152 of 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NAVIN MOHANBHAI VADHIYA - Applicant
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR KISHOR M PAUL for Applicant(s) : 1,
MR MA PATEL APP for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 11/07/2007

ORAL JUDGMENT

1. RULE. Learned A.P.P. Mr. M.A. Patel waives service of Rule on behalf of the State.

2. This Revision Application is directed against the order dated 27.2.2002 passed by the learned Sessions Judge, Rajkot in Criminal Misc. Application No.1384 of 2002 and the applicant prays to quash and set aside the said order.

3. Present applicant lodged complaint under Section 7, 13 (1) (5), 13 (2) of the Prevention Corruption Act against respondent No.2, Loan Inspector, Jilla Udyog Kentra, Rajkot before the learned Sessions Judge, Rajkot on 22.10.2001. The learned Sessions Judge sent this complaint to Anti Corruption Department, Rajkot under Section 156 (3) of Criminal Procedure Code for investigation and also passed an order to submit report of the investigation on or before 29.11.2001. On the basis of the complaint, the Investigating Officer has carried out investigation in pursuance of the order passed by the learned Sessions Judge, Rajkot. The Investigating Officer has submitted “A” Summary report before the learned Sessions Judge, Rajkot. The learned Sessions Judge, Rajkot has accepted the report and without hearing the applicant, he has passed an order against the applicant to initiate the proceedings under Section 182 of the Indian Penal Code. He has also without hearing the applicant straightway initiated criminal case and issued bailable warrant of Rs.1000/- against the applicant. Therefore, present applicant has preferred this Revision Application under Section 397 of Criminal

Procedure Code before this Court.

4. Heard Mr. Kishor M. Paul, learned advocate for the applicant and Mr. M.A. Patel, learned A.P.P. for the State.

5. It is settled legal position of law that before accepting the report submitted by the police under Section 169 of Criminal Procedure Code, the Court ought to have issued a notice to the complainant. In this case, the learned trial Judge has accepted “A” Summary report and he has not taken care to issue notice to the complainant, which is mandatory under the provisions of law.

6. Learned advocate Mr. Paul has fairly submitted that as per the order of the accepting “A” Summary Report is concerned, he has no grievance, but he has challenged the order passed under Section 182 of Indian Penal Code in Revision Application.

7. Taking into consideration the report of “A” Summary as per the Investigating Officer, nowhere it is stated that false complaint is filed by the complainant and hence, question does not arise to take cognizance under Section 182 of Indian Penal Code.

8. In view of the above, the order dated 27.2.2002 passed by the learned Sessions Judge, Rajkot for taking cognizance for the offence under Section 182 of Indian Penal Code in Criminal Misc. Application No.1384 of 2002, is hereby quashed and set aside. Hence, the present Revision Application is allowed. Rule is made absolute to that extent.

(M.D. SHAH, J.)

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